

REMARKS

I. Formal Matters

Claims 2, 8, 10, 14, 16, 18, 22, 25, 26, and 28-30 are all the claims currently pending in the present Application. Claims 1, 3-7, 9, 11-13, 15, 17, 19-21, 23, 24 and 27 were previously canceled. By this Amendment, Applicant adds new claims 31 and 32. Ample support for the newly added claims may be found throughout the specification, for example in FIG. 9 and page 37, line 2-25.

II. Claim rejections -- 35 U.S.C. § 102

Claims 2, 8, 10, 14, 16, 22, 25, 26 and 30 stand rejected under 35 U.S.C. § 102(b) as allegedly being anticipated by Ross, Jr. et al. (U.S. Pat. No. 5,823,948). Applicant respectfully disagrees.

In previous Actions, the Examiner has argued that the temporal relationship between the request for records and the determination of access rights has not been spelled out. Applicant has amended the claim to make this distinction clear.

Applicant respectfully asserts that with respect to claim 2, Ross does not disclose, or even suggest, at least the “control server, *after the request to transmit* one or more of said electronic medical records is made, *judges whether a user who transmitted said request is a user who has a second access right or not*, and when said user has said second access right, said control server makes said electronic medical record storer store said electronic medical records.”

By contrast, the Ross system determines the access rights of a user at the time the user logs in. Specifically, as described in Ross:

the computer system has security measures which limits access to the system. Patients, family members, or others are prevented from looking into medical records or entering information. The caregiver approaches a station terminal and inserts a security card. The local station terminal becomes active. *The user is*

automatically identified and areas in which the user has "rights" are made available.

Col. 3, lines 33-40. In other words, if a nurse logs in to the terminal, the nurse has a certain level of access rights. Some areas of access are not available to the nurse. If a doctor logs in, however, he will have a different level of access rights. Regardless of the user, ***the level of access rights is determined at the time the user logs in.***

The actual description of the security module of the Ross patent is limited to a single paragraph, which reproduced for the Examiner's convenience below:

Security Validation Module--Personnel using the system must clearly demonstrate their identity using a variety of methods depending on the system configuration. Single and multiple passwords, smart card technology, magnetic card or other personal ID technologies. ***The user's identity establishes the individual "rights" to use various functions.*** For example, physicians may be the only users given rights to generate prescriptions, nurses could have rights to implement various medical procedures, ward clerks might need rights to order labs, but records clerks may be limited to changing demographic information. When smart cards are used, the system is available only while a proper, authorized card is inserted. Upon withdrawal, the system completes any processes and reverts to a non responding mode.

Col. 6, lines 50-64 (emphasis added). This paragraph confirms that the "rights" afforded to the user are established by the user's identity. In other words, the rights are established when the user logs in. When the user logs in, the areas in which the user has "rights" are automatically made available. Thus, the security module of Ross does not require an additional determination of rights when after a request for records is made. ***Whether the user is able to request a record or not is determined when the user logs in.***

Because the user cannot make a request for records in Ross until he logs in, Ross necessarily requires an "access rights" determination ***before*** the request for records can be made. By contrast, claim 2 requires for the user's access rights to be verified ***after*** the request for records is made. For at least this reason, claim 2 overcomes the disclosure of Ross.

With regard to independent claim 8, Appellant respectfully asserts that this claim is patentable for reasons analogous to those recited with respect to independent claim 2. As claims 10, 14, and 16 each depend from independent claims 2 or 8, they are patentable at least by virtue of their respective dependencies.

With further regard to claim 22, this claim recites a limitation similar to that of claim 2, which was discussed above. Therefore, claim 22 is patentable over Ross for reasons analogous to those recited with respect to claim 2. With regard to claim 26, this claim is patentable at least by virtue of its dependency from independent claim 22.

With further regard to independent claim 25, Appellant respectfully asserts that this claim is also allowable for reasons analogous to those recited with respect to claim 2. With respect to dependent claim 30, this claim is patentable at least by virtue of its dependency from claim 25.

Additional Note - Claim rejections -- 35 U.S.C. § 102

Applicant notes that while the previous Office Action identified claims 2, 8, 10, 14, 16, 22, 25, 26 and 30 as rejected under 35 U.S.C. § 102(b), claim 14 is ***not addressed*** on the merits in the Final Office Action, the Examiner's Answer during Appeal, or throughout the prosecution of this Application. Applicant respectfully requests that the Examiner address claim 14 in the next Action.

III. Claim Rejections -- 35 U.S.C. § 103

Claims 18, 28 and 29 stand rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Ross and further in view of Wallace et al. (U.S. Pat. No. 6,564,121). Applicant respectfully disagrees.

Claims 18, 28 and 29 depend from independent claims 8 and 22 and 25, respectively, which have been shown above to be patentable over Ross. Wallace does not cure the

deficiencies of Ross. Therefore, claims 18, 28 and 29 are patentable over the Ross and Wallace combination, and Applicant respectfully requests that the rejection of these claims be withdrawn.

IV. Conclusion

In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

This Amendment is being filed via the USPTO Electronic Filing System (EFS). Applicant herewith petitions the Director of the USPTO to extend the time for reply to the above-identified Office Action for an appropriate length of time if necessary. Any fee due under 37 U.S.C. § 1.17(a) is being paid via the USPTO Electronic Filing System (EFS). The USPTO is also directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

Respectfully submitted,


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